

### **Remarks**

Claims 1-9 are pending in the application and were rejected. By this Amendment, claims 1-9 have been amended. Reconsideration of the claims is respectfully requested. No new matter has been added.

#### **Rejection Under 35 U.S.C. § 112**

Claim 7 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants have amended claim 7 to eliminate the term "cross member" and correct minor grammatical errors. Consequently, Applicants believe this rejection has been cured.

#### **Rejection Under 35 U.S.C. § 102**

Claim 1 was rejected under § 102(b) as being anticipated by U.S. Patent No. 6,079,776 issued to Breitner et al. (hereinafter "Breitner '776"). Applicants have amended claim 1 to more distinctly claim the present invention. Amended claim 1 recites a head restraint arrangement having a flip-up assembly. The flip-up assembly has "a lower flip-up member disposed proximate the head restraint post, a middle flip-up member disposed proximate the lower flip-up member, and a top flip-up member pivotally connected to the middle flip-up member." Breitner '776 does not disclose a flip-up assembly as claimed. Instead, Breitner '776 recites "a head cushion 11 [that] comprises a cushion support 14" (column 2, line 52). The cushion support "is swivellably held on the supporting bow 10 by means of a swivel bearing 16" (column 2, lines 63-65). The supporting bow "has two parallel holding rods 12 which ... are inserted into guiding sleeves withing the backrest of the vehicle seat" (column 2, lines 42-46). As such, Breitner '776 does not disclose top, middle, and bottom flip-up members as claimed. In addition, amended claim 1 recites that the top flip-up member is adapted to move from a deactivated position "in which the top flip-up member extends away from a head of an occupant" to an activated position "in which the top flip-up member is disposed above the middle flip-up member to support the head of the occupant." Breitner '776 does not disclose a top flip-up member adapted to move between activated and deactivated positions as claimed. Instead, Breitner '776 discloses a cushion support disposed

in a vertical position parallel to the head of a seat occupant under normal conditions (see Figure 1 and column 3, lines 58-64) and is disposed below the swivel bearing “at an acute angle of approximately 30°-40°” in a maximally adjusted position (see Figure 2 and column 2, lines 63-67). Consequently, Applicants believe this rejection has been overcome. Since claims 2-9 depend on amended claim 1, Applicants believe these claims are allowable for the same reasons.

Claims 1-9 were rejected under § 102(e) as being anticipated by U.S. Patent No. 6,688,697 issued to Baumann et al. (hereinafter “Baumann ‘697”). As previously discussed, amended claim 1 recites a flip-up assembly having top, middle, and bottom flip-up members. Baumann ‘697 does not recite a flip-up assembly having top, middle, and bottom flip-up members. Instead, Baumann ‘697 recites a head restraint having “two parts, a fixed, rear support part 2 and a movable, front part 12” (column 4, lines 9-11). In addition, amended claim 1 recites that the top flip-up member is adapted to move from a deactivated position “in which the top flip-up member extends away from a head of an occupant” to an activated position “in which the top flip-up member is disposed above the middle flip-up member to support the head of the occupant.” Baumann ‘697 does not disclose a top flip-up member adapted to move between activated and deactivated positions as claimed. Instead, Baumann ‘697 discloses that the “front part 12 of the head restraint ... moves parallel, i.e. without any change in inclination” away from the support part (column 5, lines 33-35 and Figure 2b-2c). Consequently, Applicants believe this rejection has been overcome. Since claims 2-9 depend on amended claim 1, Applicants believe these claims are allowable for the same reasons.

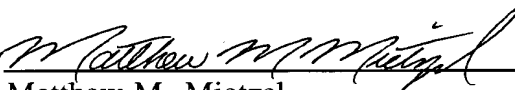
**Conclusion**

Applicants have made a genuine effort to respond to the Examiner's rejections in advancing the prosecution of this case. Applicants believe all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested.

A check in the amount of \$110.00 is enclosed to cover the Petition fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978 -- a duplicate of this paper is enclosed for that purpose.

Respectfully submitted,

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